REMARKS

Claims 1-15 are in the case and presented for consideration.

Allowable Subject Matter

Applicants gratefully acknowledge the indication in the Office Action that claims 12 and 14 contain allowable subject matter.

Objection to the Specification

Appreciation is expressed for the helpful suggestions offered by the Examiner for amending the specification. However, Applicants respectfully decline to add section headings. Section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. … [T]he Office will not require any application to comply with the format set forth in 1.77"). It is respectfully submitted that the Manual of Examining Procedure (MPEP) does not specifically require the use of section headings in the specification. Rather, the MPEP merely provides *voluntary* guidelines and suggests *preferred* layouts for arranging the specification. This is evidenced by the use of the word "should" rather than "must" in the discussions pertaining to the arrangement of the specification in the relevant sections of the MPEP, particularly MPEP § 608.01. Moreover, paragraph 6.01 (of MPEP § 608.01) specifically states that the "guidelines are

suggested for applicant's use." Accordingly, it is believed that specification is in compliance with all requirements.

First Rejection Under 35 U.S.C. § 102

Claims 1, 2, 4-6 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,272,518 to Vincent. The reasons for the rejection are stated on pages 2-4 of the Office Action. The rejection is respectfully traversed.

Claims 1-5

Claim 1 recites, among other patentable features, the step of "searching the database for data items that match colour criteria indicated by the transmitted color definition data" and the step of "transmitting said list of data items to the user device".

The Office Action asserts that Vincent discloses the method recited in claim 1. In particular, according to the Office, Vincent discloses both the searching and transmitting steps mentioned above at col. 15, lines 9-15[1]. Applicants respectfully disagree.

Col. 15, lines 9-15, (Vincent) is reproduced below for convenient reference.

> Normally, color image data will be stored in a color data module 70 associated with the CPU 56 and transmitted along the network between computer systems in a standard format, preferably according to a colorimetric standard such as the CIE Lab luminance/chrominance values.

Vincent discloses a system for correcting colors displayed by a peripheral device

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1 The column and line numbers used in this Amendment were provided by the Examiner during the

9

(abstract). According to Vincent, color information for the monitor, printer and scanner is optically collected by the colorimeter (col. 14, lines 49-51) and sent to the CPU for computing a table of color conversion values for each peripheral device measured by the colorimeter (col. 14, lines 58-60). These values can be stored in a color data module (col. 15, lines 10-11), and are used to generate a device-dependent image for display on the device being calibrated (col. 15, lines 33-46). During calibration, the response of the displayed colors are measured by the colorimeter and fed back to the CPU. Any color errors produced by the device being monitored are used to generate or modify the contents of the color map module to correct the output commands issued to the device (col. 15, lines 54-68). Accordingly, contrary to the Office's assertion, Vincent does not teach or suggest searching a database for data items that match color criteria indicated by the transmitted color definition data. Rather, in Vincent, an image is first generated (from the data in the color data module 70), based on the device being calibrated (and _not_ based on the color information transmitted by the colorimeter), and then the ideal or reference response of the device is compared with colors measured by the colorimeter to correct the color output.

Vincent also does not disclose transmitting any output to the user device having an optical sensor for sensing color information. Instead, the corrected color output from the CPU is sent to the peripheral device being measured (col. 15, lines 65-68). Accordingly, Vincent does not teach or suggest transmitting a list of data items (which match colour

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January 22, 2007 telephone interview.

criteria indicated by transmitted colour definition data) to the user device.

Accordingly, it is believed that Vincent does not support the rejection of claim 1. Claims 2-5 depend from claim 1 and are further distinguished from Vincent. Withdrawal of the rejection of claims 1-5 is therefore respectfully requested.

<u>Claim 6</u>

Claim 6 recites, among other patentable features, the step of "receiving from the remote database a list of one or more data items that matches the colour criteria indicated by the transmitted colour definition data" and the step of "providing as output to a user the one or more data items in the list on the portable user device."

As explained above, the colorimeter in Vincent only reads or detects color from the peripheral device (col. 14, lines 49-53). The colorimeter is unable receive any output from the CPU or from the color data module 70. Instead, the corrected color output is sent to the peripheral device being calibrated so that it can be read by the colorimeter. Since the colorimeter cannot receive data from a remote database, it necessarily follows that the colorimeter cannot provide "as output to a user the one or more data items... <u>on the portable user device</u>." Accordingly, it is believed that Vincent does not support the rejection of claim 6. Claim 7 depends from claim 6 and is further distinguished from Vincent. Withdrawal of the rejection of claims 6-7 is therefore respectfully requested.
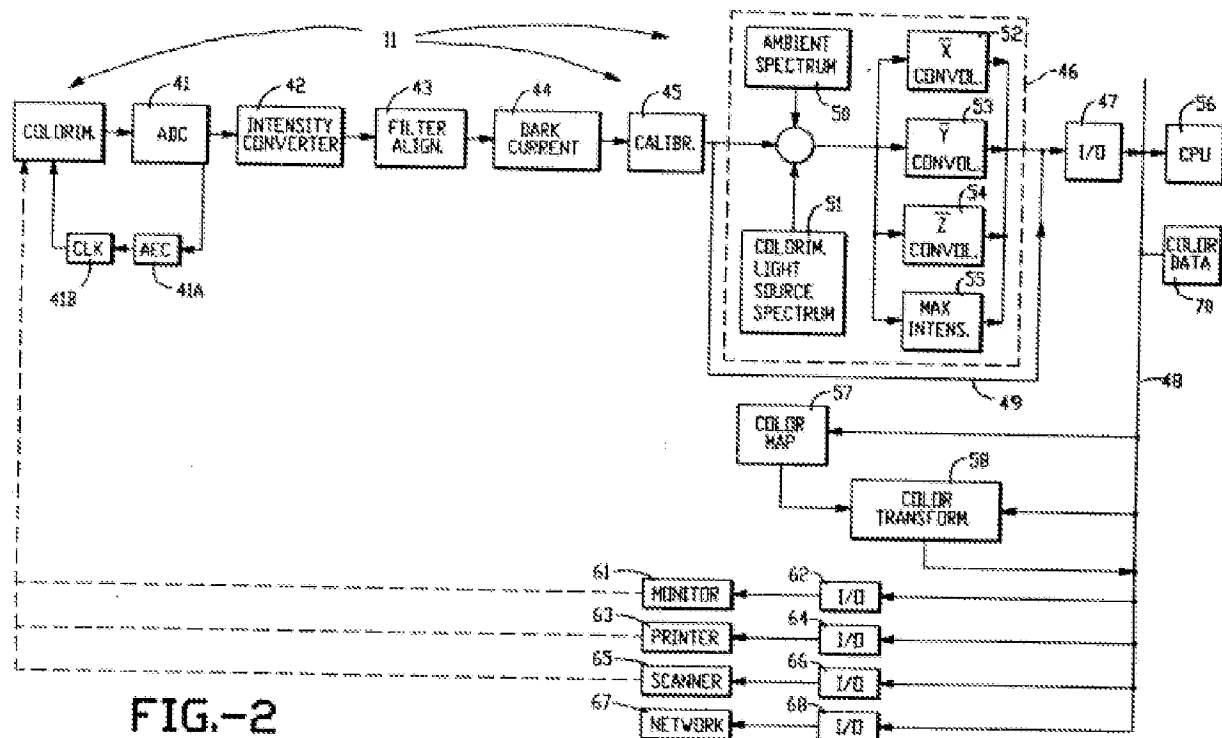
Claim 15

Claim 15 recites a portable color sampling device comprising, among other patentable features, "a comparison engine for receiving a colour definition data file relating to a current sampled article, and for searching colour definition data files in the memory to determine any of the stored files which match colour criteria indicated by the colour definition data for a current sample" and a "means for indicating determined stored files that match the colour criteria."

The Office Action asserts that the portable color sampling device recited in claim 15 is disclosed by Vincent at col. 15, lines 40-46, and col. 16, lines 5-11, and that the comparison engine of claim 15 corresponds to color transform engine (reference numeral 58 of Vincent). Applicants respectfully disagree.

According to Vincent (col. 15, lines 50-53), the color transform engine 58 is used for interpolating color values not specifically contained in a given color map. Therefore, the color transform engine 58 is not intended for searching the memory for any stored files which match the color criteria indicated by the color definition data for a current sample (see claim 15, lines 7-10). Moreover, Vincent does not provide any details regarding a portable color sampling device which has a comparison engine. According to Vincent (col. 14, lines 35-39 and col. 16, lines 5-7), the colorimeter output values are sent to the CPU of a computer system. As shown in Fig. 2 (Vincent), the computer system includes a color transform engine 58 and has peripheral devices (61, 63, 65) and the colorimeter 11 attached thereto. Clearly, no matching or searches are performed at or by the colorimeter 11, nor does the colorimeter 11 contain any mechanism or structure that can perform

these functions. Moreover, the colorimeter 11 does not receive any data, such as the color definition data file of claim 15, for comparison from the computer system shown in Fig. 2. Even if data can be transmitted from the information bus 48 to the colorimeter 11 through the input/output port 47, the colorimeter 11 does not contain any component that can process, let alone compare, such data. Fig. 2 of Vincent is reproduced below for the Examiner's convenient reference.

FIG.-2

Based on the foregoing discussion, it is respectfully submitted that the Examiner's rejection of Applicants' claim 15 under 35 U.S.C. § 102(b) has been overcome and that this claim is believed to be allowable.

Second Rejection Under 35 U.S.C. § 102

Claim 8 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,483,339 to Van Aken, et al. ("Van Aken"). The reasons for the rejection are stated on pages 4-5 of the Office Action. The rejection is respectfully traversed.

Claim 8, as amended, recites the allowable subject matter of claim 12 and 14 and thus is believed to be allowable. Withdrawal of the rejection of claim 8 is respectfully requested.

Third Rejection Under 35 U.S.C. § 102

Claims 9 and 13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,584,435 to Mestha, et al. ("Mestha"). The reasons for the rejection are stated on pages 5-6 of the Office Action. The rejection is respectfully traversed.

Claim 9

Claim 9 has been amended to recite, among other patentable features, a step of "receiving a colour definition data file relating to a current sampled article, and searching colour definition data files in the memory to determine if any of the stored files match only colour criteria indicated by the colour definition data for a current sample".

In contract, Mestha discloses a LED-based spectrophotometer which uses a reconstruction algorithm to convert measurements into a fully populated spectral curve using a reference database (abstract). According to Mestha, the reference database

14

contains training samples that indicate reflectance spectra and their corresponding LED

sensor output (col. 3, lines 33-35). Mestha also discloses that the reference database is

generated by measuring the reflectance spectra of some set of reference colors (col. 8,

lines 4-5). Moreover, Mestha discloses that the algorithm uses and gives greater

importance to the data from the training samples in the neighborhood of the color sample

under measurement. Accordingly, Mestha clearly does not teach or suggest searching

stored files that "match only colour criteria indicated by the colour definition data for a

current sample", as recited in claim 9. Accordingly, it is believed that Mestha does not

support the rejection of claim 9. Withdrawal of the rejection of claim 9 is therefore

respectfully requested.

Claim 13

Claim 13 has been amended to recite, among other patentable features, "a search

engine for receiving the colour definition data file and locating, in the database, data items

that match only colour criteria indicated by the transmitted colour definition data".

As explained above, Mestha does not teach or suggest a search engine configured

to search or locate "data items that match only colour criteria indicated by the transmitted

colour definition data", as recited in claim 13. Accordingly, it is believed that Mestha does

not support the rejection of claim 13. Withdrawal of the rejection of claim 13 is therefore

respectfully requested.

15

Fourth Rejection Under 35 U.S.C. § 102

Claims 10 and 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,640,145 to Hoffberg, et al. ("Hoffberg"). The reasons for the rejection are stated on pages 6-7 of the Office Action. The rejection is respectfully traversed.

Claim 10, as amended, recites a portable colour sampling device comprising: an optical sensor for sensing colour information representative of the colour of an article being sampled; means for generating a colour definition data file from said colour information; a wireless transmitter for transmitting said colour definition data file to a remote database; and a wireless receiver for receiving, from said remote database, a list of data items that match colour criteria indicated by the transmitted colour definition data. Applicants submit that Hoffberg does not disclose or suggest the portable color sampling device, as recited in claim 10.

The Office Action asserts that Hoffberg, at col. 131, lines 33-35, col. 132, lines 21-25, and Fig. 23, discloses the portable color sampling device recited in claim 10. While Hoffberg may have mentioned several types of sensors (e.g., light, temperature, humidity, pressure, air flow, event and wireless sensors), it provides no details regarding optical sensors for sensing color information representative of the color of an article being sampled. Even if, *arguendo*, Hoffberg were to teach sensors capable of sensing color information, it would still not read on the claim invention because Hoffberg does not teach or suggest a remote database programmed to store data items with color attributes. Since Hoffberg does not teach or suggest such a database, it necessarily follows that Hoffberg also cannot disclose or suggest "a list of data items [from the remote database] that match

colour criteria indicated by the transmitting colour definition data."

Accordingly, it is believed that Hoffberg does not support the rejection of claim 10. Claims 11 depends form claim 10 and is further distinguished from Hoffberg. Withdrawal of the rejection of claims 10 and 11 is therefore respectfully requested.

Applicants have endeavored to make the foregoing response sufficiently complete to permit prompt, favorable action on the subject patent application. In the event that the Examiner believes, after consideration of this response, that the prosecution of the subject patent application would be expedited by an interview with an authorized representative of the Applicants; the Examiner is invited to contact Yan Glickberg at the contact information listed below.

Applicants respectfully submit that by this response, they have placed the application in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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17

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